



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Robert F. McDonnell  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

## MEMORANDUM

**To:** David E. Dicks, Executive Director  
Board for Waste Management Operators  
Department of Professional and Occupational Regulation

**From:** Elizabeth B. Peay  
Assistant Attorney General  
Counsel to the Board for Waste Management Operators

**Date:** October 30, 2008

**Subject:** Letter of Assurance for Exempt Action Final Regulation 18 VAC 155-11 – Public Participation Guidelines

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I have reviewed the Exempt Action Final Regulation issued by the Board for Waste Management Operators. In my view, as counsel to the Board, the Board may promulgate these regulations, pursuant to § 54.1-2211 of the *Code of Virginia*. The regulations do not appear, on their face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with federal or state law currently in effect. In addition, these regulatory changes are exempt from the requirements of Virginia's Administrative Process Act (APA), Code of Virginia §2.2-4006 A.4.a because this regulatory change is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.

This memorandum addresses legal matters only, is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed, regulations, and does not address, or express a position on, matters of public policy.